

STATE OF IOWA
PROPERTY ASSESSMENT APPEAL BOARD

Nathan Wall,
Petitioner-Appellant,

v.

Polk County Board of Review,
Respondent-Appellee.

ORDER

Docket No. 11-77-0893
Parcel No. 241/00993-820-073

On September 7, 2012, the above-captioned appeal came on for consideration before the Iowa Property Assessment Appeal Board. The appeal was conducted under Iowa Code section 441.37A(2)(a-b) and Iowa Administrative Code rules 701-71.21(1) et al. Petitioner-Appellant, Nathan Wall, requested his appeal be considered without hearing. He was self-represented. The Board of Review designated Assistant County Attorneys Ralph E. Marasco, Jr., David Hibbard, and Anastasia Hurn as its legal representatives. Wall submitted documentary evidence in support of his appeal. The Appeal Board now having examined the entire record and being fully advised, finds:

Findings of Fact

Nathan Wall, owner of property located at 7335 Dusk Drive, Johnston, Iowa appeals from the Polk County Board of Review decision reassessing his property. According to the property record card at the time of the protest, the subject property is a two-story, frame dwelling with 1656 square feet of living area, a full basement with 788 square feet of average plus finish, and a 717 square-foot attached garage built in 2010. It has a good quality rating (3-10) and is in normal condition. The property is also improved by a 143 square-foot open porch, 180 square-foot deck, and a 100 square-foot shed. It is located on a 0.344-acre site.

The real estate was classified as residential on the initial assessment of January 1, 2011, and valued at \$233,500, representing \$62,300 in land value and \$171,200 in dwelling value.

Wall protested to the Board of Review on the ground that the assessment was not equitable as compared with assessments of other like property in the taxing district under Iowa Code section 441.37(1)(a) and that there has been a downward change in value under sections 441.37(1) and 441.35(3). Because the ground of downward change is only appropriately pled in a non-assessment or “interim” year, we do not consider this basis for relief. *Eagle Food Ctrs., Inc. v. Bd. of Review of the City of Davenport*, 497 N.W.2d 860, 862 (Iowa 1993). However, we note, that the appellant’s claim of downward change in value in an assessment year is akin to a challenge on market value. *See Dedham Co-op. Ass’n v. Carroll County Bd. of Review*, 2006 WL 1750300 (Iowa Ct. App. 2006). The Board of Review denied the protest.

Wall then filed his appeal with this Board and urged the same grounds. He confines his appeal to the issue of his land value. In his petition, he contends the lot was purchased for \$39,500 before construction on his dwelling began in 2010 and the assessed value was raised to \$51,900 within a few months of the purchase. We note he purchased the property in July 2010, for \$245,000.

The Board of Review evidence was related to the total value of comparable homes in the subdivision and has limited relevance to the more narrow land value appeal. Although land size was given for the comparable properties, the assessed value of the land is not separately listed.

Comparing the assessed value of similarly sized lots in Wall’s neighborhood provided in the certified record, it is clear the undeveloped lots were valued at a lower rate than the developed lots. The undeveloped lots were assessed between \$49,600 and \$49,900 and the developed lots were assessed between \$62,000 and \$62,500. This is likely the reason Wall’s lot increased when construction began and accounts for the difference between his lot and other similarly sized lots.

Wall's developed lot is assessed at \$62,300, which is equitable with other similar developed lots in the area.

Address	Square Feet of Land	Assessed Value	Developed Lot
Subject	15,000	\$ 62,300	Yes
7336 Moonlight Drive	15,000	\$ 62,300	Yes
7339 Moonlight Drive	15,000	\$ 49,900	No
7402 Moonlight Drive	15,000	\$ 62,300	Yes
8804 Daybreak Road	15,000	\$ 62,500	Yes
8808 Daybreak Road	15,000	\$ 62,500	Yes
8812 Daybreak Road	15,000	\$ 62,500	Yes
8816 Daybreak Road	15,000	\$ 62,500	Yes
8820 Daybreak Road	15,000	\$ 62,500	Yes
8902 Daybreak Road	15,000	\$ 62,500	Yes
8906 Daybreak Road	15,000	\$ 62,500	Yes
7327 Dusk Drive	15,000	\$ 62,300	Yes
7332 Dusk Drive	15,000	\$ 62,000	Yes
7340 Dusk Drive	15,000	\$ 49,600	No
7343 Dusk Drive	15,000	\$ 49,900	No
8821 Horizon Road	15,000	\$ 49,900	No
7331 Dawn Drive	15,000	\$ 62,000	Yes
7336 Dawn Drive	15,000	\$ 49,700	No
7339 Dawn Drive	15,000	\$ 62,000	Yes
7344 Dawn Drive	15,000	\$ 49,700	No
7400 Dawn Drive	15,000	\$ 49,700	No
7403 Dawn Drive	15,000	\$ 49,600	No

The 22,864 square foot, undeveloped lot located at 8918 Daybreak Road identified by Wall was initially assessed at \$65,000 and the Board of Review lowered the assessment to \$48,700. It is unclear from the record why this property was assessed at a somewhat lower rate than other undeveloped lots in the neighborhood. Because Wall's lot is developed, however, it is not comparable to the 8918 Daybreak Road lot.

Wall did not provide any additional evidence to demonstrate the fair market value of the land alone to support his claim of over-assessment. The weight of the evidence, particularly the assessments of similarly situated properties, shows the property was equitably assessed.

After reviewing all of the evidence, we find Wall did not prove by a preponderance of the evidence his claims that the property was inequitably assessed or over-assessed as of January 1, 2011.

Conclusion of Law

The Appeal Board applied the following law.

The Appeal Board has jurisdiction of this matter under Iowa Code sections 421.1A and 441.37A (2009). This Board is an agency and the provisions of the Administrative Procedure Act apply to it. Iowa Code § 17A.2(1). This appeal is a contested case. § 441.37A(1)(b). The Appeal Board determines anew all questions arising before the Board of Review related to the liability of the property to assessment or the assessed amount. § 441.37A(3)(a). The Appeal Board considers only those grounds presented to or considered by the Board of Review. § 441.37A(1)(b). But new or additional evidence may be introduced. *Id.* The Appeal Board considers the record as a whole and all of the evidence regardless of who introduced it. § 441.37A(3)(a); *see also Hy-vee, Inc. v. Employment Appeal Bd.*, 710 N.W.2d 1, 3 (Iowa 2005). There is no presumption that the assessed value is correct. § 441.37A(3)(a).

In Iowa, property is to be valued at its actual value. Iowa Code § 441.21(1)(a). Actual value is the property's fair and reasonable market value. § 441.21(1)(b). "Market value" essentially is defined as the value established in an arm's-length sale of the property. *Id.* Sale prices of the property or comparable properties in normal transactions are to be considered in arriving at market value. *Id.* If sales are not available, "other factors" may be considered in arriving at market value. § 441.21(2). The property's assessed value shall be one hundred percent of its actual value. § 441.21(1)(a).

To prove inequity, a taxpayer may show an assessor did not apply an assessing method uniformly to similarly situated or comparable properties. *Eagle Food Centers*, 497 N.W.2d at 865. Alternatively, a taxpayer may show the property is assessed higher proportionately than other like

property using criteria set forth in *Maxwell v. Shriver*, 257 Iowa 575, 133 N.W.2d 709 (1965). The *Maxwell* test provides that inequity exists when, after considering the actual and assessed values of comparable properties, the subject property is assessed at a higher proportion of this actual value. *Id.* The Maxwell test can be satisfied even though current Iowa law requires assessments to be at one hundred percent of market value. § 441.21(1). Wall did not prove by a preponderance of the evidence that his property is inequitably assessed under either the *Eagle Food* or *Maxwell* tests.

In an appeal alleging the property is assessed for more than the value authorized by law under Iowa Code section 441.37(1)(b), there must be evidence that the assessment is excessive and the correct value of the property. *Boekeloo v. Bd. of Review of the City of Clinton*, 529 N.W.2d 275, 277 (Iowa 1995). Evidence, such as an appraisal or comparable sales, to show the assessed value of Wall's land was for more than authorized by law was lacking.

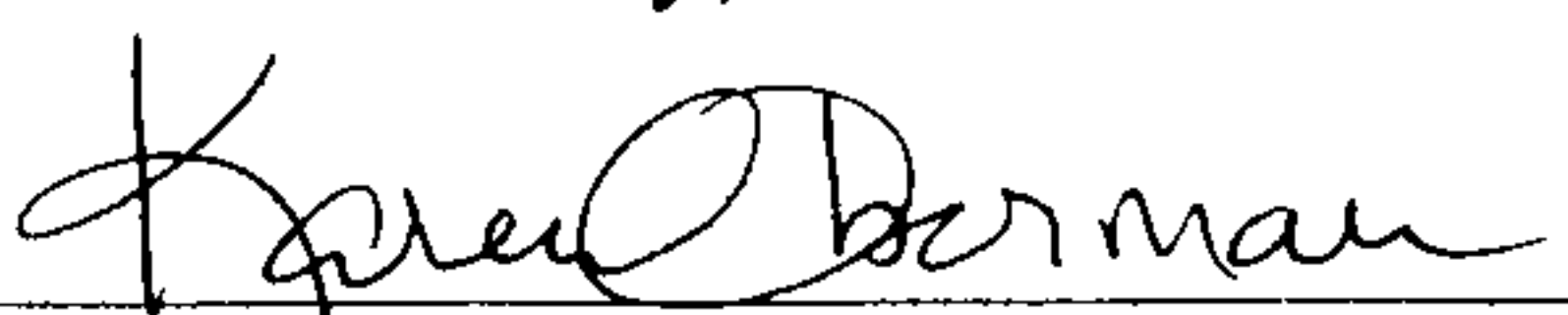
Viewing the evidence as a whole, we determine Wall failed to prove by a preponderance of the evidence that his property was inequitably assessed or over-assessed as of January 1, 2011. Therefore, we affirm the property assessment as determined by the Board of Review. The Appeal Board determines the property assessment value as of January 1, 2011, is \$233,500, representing \$62,300 in land value and \$171,200 in dwelling value.

THE APPEAL BOARD ORDERS that the January 1, 2011, assessment as determined by the Polk County Board of Review, is affirmed.

Dated this 10 day of October 2012.

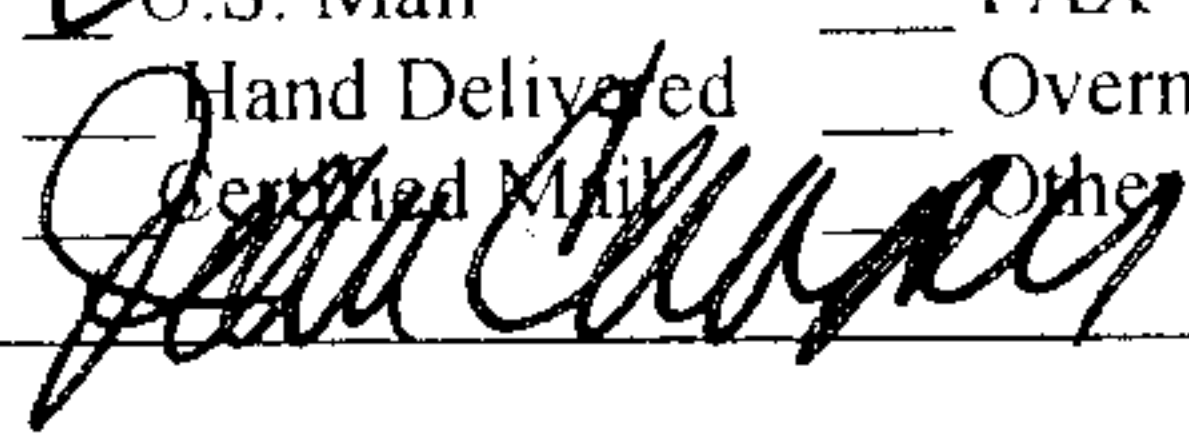

Jacqueline Rypma, Presiding Officer


Richard Stradley, Board Chair


Karen Oberman, Board Member

Copies to:
Nathan Wall
7335 Dusk Drive
Johnston, IA 50131
APPELLANT

Ralph E. Marasco, Jr./David Hibbard/Anastasia Hurn
Assistant Polk County Attorney
111 Court Avenue, Room 340
Des Moines, IA 50309-2218
ATTORNEY FOR APPELLEE

Certificate of Service	
The undersigned certifies that the foregoing instrument was served upon all parties to the above cause & to each of the attorney(s) of record herein at their respective addresses disclosed on the pleadings on <u>10-10</u> , 201 <u>7</u>	
By:	<input checked="" type="checkbox"/> U.S. Mail <input type="checkbox"/> FAX
	<input type="checkbox"/> Hand Delivered <input type="checkbox"/> Overnight Courier
	<input type="checkbox"/> Certified Mail <input type="checkbox"/> Other
Signature	<u></u>